

## Message Text

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ORIGIN EB-11

INFO OCT-01 ARA-16 ISO-00 FMC-04 COME-00 L-03 SP-03 AID-20

NSC-07 RSC-01 CIEP-03 TRSE-00 SS-20 STR-08 OMB-01

CEA-02 CIAE-00 DODE-00 DOTE-00 INR-11 NSAE-00 CG-00

COA-02 DLOS-07 SWF-02 /122 R

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APPROVED BY EB/MA:RAWEBB

ARA/CEN:DCLARE

ARA/CEN:DLAZAR

ARA:WGBOWDLER

FMC:WJSMITH

MARAD:FRAITER

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R 231805Z AUG 74

FM SECSTATE WASHDC

TO AMEMBASSY GUATEMALA

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E.O. 11652: N/A

TAGS: ETRN, GT, US

SUBJECT: US-GUATEMALAN SHIPPING PROBLEM

REF: GUATEMALA 2917 AND PREVIOUS

TEXT OF AIDE MEMOIRE MENTIONED SEPTTEL FOLLOWS:

1. THE EMBASSY OF THE UNITED STATES OF AMERICA WISHES TO DRAW ATTENTION TO AN URGENT AND SERIOUS PROBLEM WHICH HAS ARISEN IN OUR BILATERAL MARITIME RELATIONS. UNFORTUNATELY, EFFORTS TO RESOLVE THIS PROBLEM INFORMALLY OR AT THE PURELY COMMERCIAL LEVEL HAVE BEEN UNSUCCESSFUL.

2. THE EMBASSY UNDERSTANDS THE SITUATION TO BE AS FOLLOWS.

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IN JANUARY, 1974, DELTA STEAMSHIP LINES INAUGURATED

AMERICAN FLAG SERVICE BETWEEN U.S. GULF PORTS AND GUATEMALA. SINCE THE INCEPTION OF THIS SERVICE DELTA LINES HAS BEEN DENIED AN EQUITABLE PARTICIPATION IN THE CARRIAGE OF OUR MUTUAL TRADE BECAUSE OF GUATEMALAN DECREE LAW 41-71. THE LAW RESERVES ALL GOVERNMENT AS WELL AS COMMERCIAL CARGOES IMPORTED AND BENEFITTING FROM TAX EXONERATIONS BY REASON OF GUATEMALAN INDUSTRIAL DEVELOPMENT LEGISLATION AND THE CENTRAL AMERICAN AGREEMENT ON TAX INCENTIVES FOR INDUSTRIAL DEVELOPMENT EXCLUSIVELY FOR GUATEMALAN FLAG CARRIERS.

3. PRESENTLY, UNDER THIS DECREE LAW, APPROXIMATELY 65 TO 70 PERCENT OF ALL SOUTHBOUND MOVEMENTS FROM THE US GULF ARE RESERVED FOR AND CARRIED BY FLOTA MERCANTE GRAN CENTRO AMERICANA, S.A. (FLOMERCA), THE NATIONAL FLAG CARRIER OF GUATEMALA, AND ARMAGUA LINES, WHICH OPERATES TWO VESSELS FLYING THE GUATEMALAN FLAG.

4. PRIOR TO COMMENCING SERVICE TO GUATEMALA, DELTA LINES SOUGHT TO MEET WITH THE MANAGEMENT OF FLOMERCA TO DISCUSS SHIPPING PROBLEMS IN THE U.S.-GUATEMALAN TRADE CAUSED BY GUATEMALAN PRACTICES UNDER DECREE LAW NO. 41-71 AND THE POSSIBILITY OF AN ARRANGEMENT WHICH WOULD GUARANTEE TO DELTA LINES EQUITABLE PARTICIPATION WITH FLOMERCA IN THE CARRIAGE OF U.S.-GUATEMALAN TRADE TO AND FROM U.S. GULF PORTS. THE FLOMERCA MANAGEMENT WAS UNRECEPTIVE TO DELTA LINES' OVERTURE AND INTIMATED THAT IT WOULD ONLY ENTERTAIN A ROYALTY ARRANGEMENT WHEREBY DELTA LINES WOULD PAY FLOMERCA A CERTAIN PERCENTAGE OF ITS FREIGHT REVENUE IN RETURN FOR ACCESS TO U.S. EXPORT CARGOES RESERVED BY GUATEMALAN LAW. THE EMBASSY UNDERSTANDS THIS TYPE OF ARRANGEMENT EXISTS IN OTHER GUATEMALAN TRADES BECAUSE OF FOREIGN FLAG CARRIERS' ACQUIESCENCE TO GUATEMALAN CARGO RESERVATION PRACTICES PURSUANT TO DECREE LAW NO. 41-71. FROM THE STANDPOINT OF THE UNITED STATES GOVERNMENT, HOWEVER, A ROYALTY AGREEMENT VIOLATES OUR SHIPPING LAWS AND CONSTITUTES A FORM OF ECONOMIC DISCRIMINATION. MOREOVER, WITH RESPECT TO CARGO RESERVATION, THE UNITED STATES FOLLOWS THE PRINCIPLE THAT THE SHIPPING LINES OF THE TRADING PARTNERS SHOULD LIMITED OFFICIAL USE

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HAVE EQUAL ACCESS TO EACH OTHERS' GOVERNMENT-CONTROLLED CARGOES. UNITED STATES LAWS AND REGULATIONS PERMIT EQUAL ACCESS TO UNITED STATES GOVERNMENT-CONTROLLED CARGOES PROVIDED OUR LINES RECEIVE RECIPROCAL TREATMENT AND ARE NOT DISCRIMINATED AGAINST.

5. THE UNITED STATES GOVERNMENT IS SERIOUSLY CONCERNED ABOUT CURRENT PRACTICE UNDER DECREE LAW 41-71 AND CONSIDERS

FLOMERCA'S PRACTICES UNDER THE DECREE TO BE DISCRIMINATORY AND CONTRARY TO UNITED STATES LAW AND POLICY. THE EMBASSY OF THE UNITED STATES WISHES TO EMPHASIZE, MOREOVER, THAT THE PRESENT SITUATION IS CAUSING SUBSTANTIAL AND CONTINUING DAMAGE TO UNITED STATES TRADE INTERESTS AND OUR FLAG CARRIER IN THE GUATEMALAN TRADE.

6. THE EMBASSY OF THE UNITED STATES IS HOPEFUL THAT THE GUATEMALAN GOVERNMENT WILL APPRECIATE THE POLICY FRAMEWORK WITHIN WHICH THE UNITED STATES GOVERNMENT IS PURSUING ITS MARITIME INTERESTS AND WILL AGREE THAT UNITED STATES

POLICY ALSO TAKES INTO ACCOUNT THE REASONABLE INTERESTS OF GUATEMALA AND ITS SHIPPING. KISSINGER

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